THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 8330 of 2001

O r d e r:

The petitioner was joined the respondents-Central Industrial Security Force as Constable in 1983. While he was working as such, he was charge sheeted for an incident that occurred on 24.12.1989. An enquiry was conducted into the charges, and they having been stood proved either partially or fully, the petitioner was dismissed from service vide orders dated 31.07.1990 of the disciplinary and appellate authority. Assailing the order of dismissal, the petitioner filed writ petition in W.P. No. 16765 of 1991, which by order dated 26.07.1999 was allowed by this Court and the matter was remitted to the respondents for reconsideration of the matter with respect to proportionality of the punishment.

Pursuant to the order in the writ petition, the disciplinary and appellate authority passed fresh orders dated 29.09.1999 modifying the punishment of dismissal from service imposed against the petitioner to that of reinstatement into service with reduction of pay to the minimum scale for a period of five years and treated his absence from duty during the period from the order of dismissal to that of his reinstatement as *dies non*. The representation filed by the petitioner thereagainst was rejected confirming the order of reinstatement with the conditions attached thereto vide orders dated 30.11.1999 of the disciplinary and appellate authority. The revision preferred by the petitioner against the said order before respondent No.1, was also rejected. It is that order, which is called in question by the petitioner in this writ petition.

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General for the respondents-CISF.

The learned counsel for the petitioner submitted that this Court considering the fact that the punishment of dismissal from service imposed against the petitioner was disproportionate to the proved misconduct, had remanded the matter to the disciplinary and appellate authority. Pursuant thereto, the disciplinary and appellate

authority though modified the order of dismissal from service to that of reinstatement into service, yet had committed an error ordering reduction of pay to the minimum scale for a period of five years and treating his absence from duty during the period from the date of his dismissal from service to that of his reinstatement into service as *dies non*, which has the effect of denying not only denying him backwages but also service benefits for 15 years. He submitted that the revisionary authority committed grave error in confirming such order of the disciplinary and appellate authority. He submitted that on the day when the incident took place, the petitioner was on leave. Only one charge was proved in the enquiry, and given the nature of charge proved, namely mis-behaviour with superiors, the punishment of dismissal from service, which was modified by the disciplinary and appellate authority to that of reinstatement with conditions attached thereto, as confirmed in revision, pursuant to the order of this Court, is excessive. At any rate, the modified punishment not being in proportion to the proved misconduct, is illegal and arbitrary, and prayed that the impugned order be set aside and the respondents be directed to pay all the service benefits arising therefrom.

The respondents filed counter. The learned Assistant Solicitor General representing the respondents supported the impugned order. He submitted that as this Court in the writ petition filed by the petitioner assailing the punishment of dismissal from service, did not interfere with the findings arrived at in the enquiry. It only found that the punishment imposed against the petitioner was disproportionate to the charge, and on that ground it remanded the matter. The disciplinary and appellate authority upon remand, reconsidered the matter in the light of the enquiry report, final order and the observations made by this Court in its order of remand, came to the conclusion the punishment of removal from service is excessive, and accordingly modified the order of dismissal from service to that of reinstatement into service with conditions attached thereto, which was rightly confirmed in revision, and no exception can be taken thereto. He thus prayed that the writ petition be dismissed.

On the ground of mis-behaviour, a charge sheet was framed against the petitioner, and the enquiry office, who went into the charges, held them proved either fully or partially. Based on such enquiry report, the disciplinary and authority passed an order of removal, which he challenged in W.P. No. 16765 of 1991. This Court by order dated 26.07.1999 though confirmed the findings arrived at in the enquiry as

well as the disciplinary and appellate authority, yet remanded the matter to the disciplinary and appellate authority to reconsider the matter on the question of punishment as it felt that the punishment imposed by the disciplinary was summarily confirmed by the appellate authority though the petitioner had specifically pleaded that the punishment imposed was excessive and shockingly disproportionate to the charges levelled.

Pursuant thereto, the disciplinary and appellate had reconsidered the matter, and in the light of the findings arrived at in the enquiry, final order and the observations made by this Court in its order of remand, vide orders dated 29.09.1999 reduced the punishment of removal from service to that of reinstatement into service with reduction of pay to the minimum of scale of pay for a period of five years and treated his absence from duty during the period from the date of his removal from service to that of his reinstatement into service as *dies non*, and after considering the representation of the petitioner pursuant thereto, rejected the same vide order dated 30.11.1999. In the revision preferred thereagainst, the revisionary authority, taking into consideration the fact that the disciplinary enquiry was conducted as per the laid down procedure, there was no procedural irregularity or miscarriage of justice and all reasonable opportunities were extended to the petitioner to defend his case, and having regard to the charges of rudeness, misbehaviour with seniors and creating nuisance, alleged against the petitioner, which constitute serious misconduct, stood proved, yet felt that the punishment as modified by the disciplinary and appellate authority, was commensurate with the gravity of the misconduct alleged.

In **Hombe Gowda Educational Trust v. State of Karnataka**, the respondent therein was a teacher, and he is alleged to have abused the head of the institution in a filthy language and assaulted him with a chappal. In such facts situation, the apex Court observed that assaulting a superior at a work-place amounts to an act of gross indiscipline, and that the respondent who was a teacher, even under grave provocation was not expected to abuse the head of the institution in a filthy language and assault him with a chappal, and held that the punishment of dismissal from service imposed cannot be said to be wholly disproportionate so as to shock one's conscience. In the instant case, the misconduct alleged against the petitioner is that of indiscipline. Though the petitioner on the date of incident was on leave, the fact remains, he consumed liquor and under its influence misbehaved with his superiors.

The said charges stood proved. The petitioner is a member of a disciplined force, and there can be no doubt, that members of a disciplined force, are expected to maintain high standards of discipline. The respondents in order to maintain discipline, for the proved serious misconduct, though they removed the petitioner from service, yet having regard to the order of this Court, had modified the punishment of removal imposed on the petitioner to that of reinstatement into service with conditions attached thereto, which considering the misconduct alleged against the petitioner, cannot be said to be so harsh shocking to the conscience of the Court, warranting interference with it.

Imposition of punishments, is a matter within the domain of the administrative authorities. In **V. Ramana v. A.P.SRTC**, it was held that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. This Court earlier having regard to the fact that the punishment of removal from service imposed on the petitioner was disproportionate to the charges leveled against him, had directed the respondents to reconsider the question of punishment, and they having reconsidered the question of quantum of punishment, and keeping in view the nature of proved misconduct, and the effect of the misconduct on the functioning of a disciplined force like the respondents, had modified the order of removal to that of reinstatement into service with conditions attached thereto, and no exception can be taken thereto.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 15th February, 2006

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